

HOUSE BILL 1352

By Jones S

AN ACT to amend Tennessee Code Annotated, Title 1,
Chapter 3, Part 1, relative to the posting of public
notifications on the internet.

WHEREAS, there is a need and requirement for the public posting of various
notifications by both state and local governmental departments and agencies, by the legal
community, and by private citizens and entities; and

WHEREAS, there is a need to provide the greatest distribution of such notices to the
general public; and

WHEREAS, technology has advanced to provide additional means for the distribution
and dissemination of such public notices; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 1, Chapter 3, Part 1, is amended by
adding the following language as new sections as follows:

1-3-118.

(a) Notwithstanding any other provision of law, rule or regulation to the contrary,
in addition to any other public notice requirements, public notice that is required by law
to be posted in a newspaper publication or at a public building, such as a courthouse,
may be made on the internet through a web site that meets the requirements of this
section. Such a public notice web site shall serve the public interest consistent with the
aim of providing greater public access to public information and to public notice items in
particular by allowing ready access from all counties to an internet based forum and by
eliminating the need for those members of the public who are unable for any reason to
physically access the courthouses of the state to ascertain publicly posted notices. Such
public notice web site shall operate consistent with furthering the ease with which public

notice may be posted and read by any interested party as well as the public and shall provide an archive which shall store all posted public notices and make them accessible indefinitely during all hours of the day and days of the week.

(b) When notice or advertisement is required by law to be posted either at a public building or by newspaper publication, then that form of notice or advertisement may be made additionally by use of a public notice web site.

(c)

(1) The submission of the public notice may be made from any private or public access computer terminal. A reasonable fee, initially not to exceed ten dollars (\$10.00), may be charged by the company providing or operating the public notice web site for the provision of the service and the maintenance of the web site, which fee shall serve to compensate the provider of the web site. The operation and maintenance of the web site shall be at no cost to the state or to the local government entity.

(2) The company providing or operating the web site shall not at any time raise the cost for providing the web site without prior reasonable consultation with the secretary of state, and shall not in any event seek to raise the initial cost of ten dollars (\$10.00) for posting a notice for the first two (2) years the web site is in operation.

(d) The public notice web site shall submit to the secretary of state twice yearly a "status report," indicating compliance with any and all statutory and regulatory requirements governing the posting of public notice to the extent that an internet based web site can comply with such requirements. Further, such public notice web site shall submit to a "quality review" by the secretary of state should the secretary of state deem such review appropriate. In the event such review is requested, the web site provider

shall provide full access to the secretary of state to the technical and informational operations of the web site provider.

(e) The company providing the public notice web site shall meet the following requirements. Such provider shall:

(1) Post a bond of reasonable amount sufficient to insure the public interest in such amount as set by the secretary of state;

(2) Establish and operate the web site at no cost to the state or other governmental entity;

(3) Maintain the web site without interruption twenty-four (24) hours per day, seven (7) days per week, each day of the year. Except for emergency situations beyond the control of the provider, such web site shall be fully, publicly accessible at all times, including all features thereof;

(4) Maintain adequate systemic protection, back-up, and contingency planning in the event of power outage, systemic failure or other unforeseen difficulty;

(5) Have the right to hold and use a domain name which is easily recognizable and understandable by the citizens of the state. The domain name should indicate both functionality and geography and the provider must maintain the right to use such domain name and internet location at its own expense;

(6) Not infringe on any legally protected right such as a federal provisional patent application, registered patent, or prior invention to operate a web site of such a nature, and the provider's right to operate without any infringement must be clear and without the possibility of causing subsequent interruption to the web site by virtue of legal process;

(7) Possess appropriate hardware infrastructure and intellectual property

for feasible processes to deploy a state or national web site with proper methodology for communication with the court systems of the state;

(8) Have minimal capital requirements sufficient to ensure the smooth and uninterrupted ongoing operation of the web site and certify the same to the secretary of state upon request; and

(9) Provide a reasonable plan for the implementation of the web site such that public notices may be posted with reasonable ease onto the web site directly from the courts of this state, and be ready to reasonably demonstrate and implement any technology necessary to that end at no cost to the state. The provider shall provide the necessary personnel to ensure ongoing communication with the various courts of the state concerning the smooth flow of data transmission and posting at no cost to the state.

(f) Individual notices shall include at least the same information and shall be displayed on the web site using similar display and print standards as are established for newspaper advertisements made pursuant to other applicable public notice statutory requirements. Such notices shall be displayed for not less than the length of time requested by the posting entity. At the end of the posting time, the web site may, with prior approval of the person or entity that arranged for the posting, and for a reasonable fee, send a reminder to the entity that the notice is due to expire.

(g) The web site shall include an "archives feature", accessible free of charge as a public service at all times, and shall also include a function which will allow the public to determine which notices have been posted in a given county.

(h) Legal notices, both current and archived, shall be publicly searchable by keyword; by either party to a law suit; by courthouse file number; and by publication area.

(i) No person shall be charged a fee for accessing or searching or using any web site function, save for the posting of a notice.

(j) The secretary of state is authorized to promulgate necessary rules and regulations in accordance with the uniform administrative procedures act, title 4, chapter 5, to implement the provisions of this act.

1-3-119. In addition to any other public notice requirement of any section in Tennessee Code Annotated, when the public notice web site meeting the requirements of § 1-3-118 is available, publication may also be accomplished by posting the required notice on such public notice web site consistent with the requirements of such section.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.